



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable W. A. Davis
State Registrar of Vital Statistics
Texas State Board of Health
Austin, Texas

Dear Sir:

Opinion No. 0-3524
Re: Acceptance of a birth
certificate, not previously
registered, under the pro-
visions of Article 4477,
Rule 51a, R.C.S. of Texas,
as amended.

Your written request addressed to this department,
dated March 21, 1941, requesting an opinion has been received
and considered.

We quote from your request:

"I am enclosing a birth certificate of
Otto Buster Boldt, a foundling child, shown
to have been born August 30, 1916, in Tarrant
County, as well as a letter of explanation
from Judge Dave Miller, County Judge of Tar-
rant County.

"I shall be glad for you to consider
the letter and the certificate, and advise
me whether or not this certificate should
be accepted by the State Registrar of Vital
Statistics under the provisions of House Bill
614, Rule 51a, Article 4477 Revised Civil
Statutes, passed by the Texas Legislature in
1939."

In 1939, the 46th Legislature, passed House Bill No.
614 (F. 346), the caption of which Act reads as follows:

"An Act amending Sections 14 and 18 of

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Chapter 41 of the Acts of the Fortieth Legislature, First Called Session, so as to provide for the filing of the birth record of an adopted child in the local registrar's office; and providing for a change in the birth record of a child when that child is legitimatized by the marriage of its mother; and so as to provide for the registration of a birth or death that has not previously been registered; and declaring an emergency."

The above Act in addition to amending Section 14 also amended Section 18 of Chapter 41 of the Acts of the 40th Legislature, First Called Session (shown in Vernon's Civil Statutes as Article 4477, Rule 51a). Section 18 now provides in part as follows:

"And provided further, that any citizen of the State of Texas wishing to file the record of any birth or death, not previously registered, may submit to the Probate Court in the county where the birth or death occurred, a record of that birth or death written on the adopted forms of birth and death certificates. The certificate shall be substantiated by the affidavit of the medical attendant present at the time of the birth, or in case of death, the affidavit of the physician last in attendance upon the deceased, or the undertaker who buried the body. When the affidavit of the medical attendant or undertaker cannot be secured, the certificate shall be supported by the affidavit of some person who was acquainted with the facts surrounding the birth or death, at the time the birth or death occurred, with a second affidavit of some person who is acquainted with the facts surrounding the birth or death, and who is not related to the individual by blood or marriage. The Probate Court shall require such other information or evidence as may be deemed necessary to establish the citizenship of the individual filing the certificate, and the truthfulness of the statements made in that record. The Clerk of the said Court shall forward the certificate to the State Bureau of Vital Statistics with an order from the Court to the State Registrar that the

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record be, or be not, accepted. The State Registrar is authorized to accept the certificate when verified in the above manner, and shall issue certified copies of such records as provided for in Section 21 of this Act. Such certified copies shall be prima facie evidence in all Courts and places of the facts stated thereon. The State Bureau of Vital Statistics shall furnish the forms upon which such records are filed, and no other form shall be used for that purpose."

It will be noticed that the probate court is given considerable latitude, by the above quoted statute, to determine the truthfulness or to ascertain information necessary to establish the citizenship and the birth or death of any person not previously registered. This provision of the statute appears to be a specific provision applicable to the establishment of the birth or death of a citizen that has not been registered previously. The statute, it seems to us, clearly provides that the State Registrar shall accept for registration the certificate and record from the probate court, in such cases, provided the certificate is verified in the manner required by the above statute and is upon forms approved by the State Bureau of Vital Statistics.

We believe the spirit of the law and the Legislative intention is manifest in the phrase used in the emergency clause of the Act referred to above, which says in part "that the present law does not definitely define methods by which birth and death, not previously reported may be registered." Obviously the purpose of the new Act (Section 18, as amended) was intended to provide a means and method of registration which had not theretofore existed. We can find nothing in the Act which would indicate that its purpose is to defeat a registration made in compliance with the statute.

We believe the certificate is duly verified in the manner required by the statutes herein cited. Although your request and exhibits do not say that the certificate and record are presented on forms approved by the State Bureau of Vital Statistics, we assume that the forms submitted are proper and have been duly approved and this opinion is written upon such assumption.

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For all of the reasons discussed we are of the opinion and you are so advised that the State Registrar of Vital Statistics is authorized and should accept and file the certificate and record in the case referred to in your inquiry.

We trust that we have fully answered your inquiry.

Very truly yours

APPROVED APR 16, 1941

ATTORNEY GENERAL OF TEXAS

George R. Sellers
FIRST ASSISTANT
ATTORNEY GENERAL

By *Harold M. McCracken*
Harold McCracken
Assistant

HM:RS

